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May 21, 1953
Opinion No. 53-106

TO: Miss Julia Benson, Comptroller
Arizona State College
Flagstaff, Arizona

RE: Endowment Earnings Fund and
moneys received from the
Coconino County Training
School.

QUESTION: 1. May the Endowment Earnings
Fund be used to cover salaries
and general operating costs of
the Arizona State College at
Flagstaff?

2. May moneys received from
Coconino County for the Teachers'
Training School be used for the
above purposes?

No. 1. For the purposes of answering your first question, we must assume that by Endowment Earnings Fund you refer to the land fund set up in Section 25 of the Enabling Act of Arizona wherein such fund is termed a fund "for normal schools, two hundred thousand acres".

The Constitution of Arizona in Article 11, Section 10, has provided in effect that revenue for the maintenance of respective state educational institutions shall be derived from the investment of the proceeds of the sale and from the rental of such lands as were set aside by the Enabling Act or other legislative enactment of the United States, for the use and benefit of the respective state educational institutions.

The above constitutional mandate has been carried through and integrated into the statutes of the State of Arizona and the purposes for which the Endowment Earnings Fund may be used are set forth in Section 11-1103, A.C.A. 1939; this section provides as follows:

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"11-1103. Teachers' colleges land fund.--
The teachers' colleges land fund shall consist of the proceeds of all lands granted to this state by the United States for normal schools; of all property given by individuals for like purposes, unless the terms of such gift shall otherwise provide, and of the sale of timber, mineral, gravel or other natural products of property granted or given for such purpose. Said fund shall be and remain a perpetual fund for the benefit and support equally of the teachers' colleges, and the interest only of such fund, together with the moneys derived from the rental of said lands and property, shall be used." (Emphasis supplied)

A further clarification of the purposes and uses to which the Endowment Earnings Fund may be put is found in Section 54-1314, A.C.A. 1939, 1952 Cumulative Supplement. This section reads:

"54-1314. Funds under control of board.--All money for the use and benefit of the state colleges shall be expended under the direction and control of the board of regents for the support and maintenance of all colleges, for buildings and grounds, and for any other purpose that the board deems expedient if not inconsistent with the provisions of any appropriations." (Emphasis supplied)

An examination of the above mentioned sections of the Enabling Act, the Constitution and applicable statutes, reveals that the prime limitation upon the use of the land fund is that the proceeds therefrom must be used for the use, benefit and support of the college. Section 54-1314, supra, also provides that the proceeds may be used for the "support and maintenance * * * for buildings and grounds * * * and for any other purpose that the board deems expedient if not inconsistent with the provisions of any appropriations". With these limitations in mind, the basic question is whether or not payment of salaries and general operating costs of the college are expenditures which are for the use and benefit of the college.

It is the opinion of this office that the payment of salaries

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to teachers employed by the college falls within the classifications and limitations above in that an adequate force of instructors is a necessary prerequisite to the operation of the school. It is further our opinion that the payment of general operating costs is also for the use, benefit and support of the college.

Turning once more to Section 54-1314, supra, it may be seen that the Endowment Earnings Fund (which is under the direction and control of the board of regents) may be used for "any other purpose that the board deems expedient if not inconsistent with the provisions of any appropriations". In past years, as well as in 1953, the earnings on state lands and interest on the investment of the permanent land funds, have been appropriated "in compliance with the Enabling Act and the Constitution". Therefore, it would appear that the expenditure of these funds for salaries and general operating costs would not be inconsistent with the provisions of any appropriations.

Consequently the answer to your first question is in the affirmative.

No. 2. In answer to your second question, Section 54-1311, A.C.A. 1939, contains the following provisions:

"54-1311. Training schools to be under teachers' college boards--Conciliation and payment of salaries.--Every such training school shall be under the supervision and management of the board of the college in connection with which it is established; but all teachers in such school, except the principal thereof, shall be employed by the board of education of the college and the trustees of the school district in which such training school is located, acting jointly. The school district shall pay towards the expense of said school amount equal to one-half of the school money which it shall be entitled to have appropriated to it on account of the attendance at such training school during the preceding school year; provided, that pupils attending from another school district shall not be accredited with attendance in the school district in which said college is situated." (Emphasis supplied)

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It is apparent that the one-half of the school money paid by the school district is a payment "towards the expense" of the training school. The use of the word "expense" indicates a legislative intention that the money so received from the school district may be used for any bona fide expenditure incurred as a result of the operation of the training schools. While it is doubtful that such moneys could be used for capital outlay building costs, it is nevertheless our opinion that these moneys may be used for payment of salaries and other general operating costs of the training school but not for such purposes in connection with the operation of the state college. These funds must be limited to the operation of the training school.

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The Attorney General.

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